

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALLAN DILLARD,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 22-CV-0941
	:	
CITY OF PHILADELPHIA, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 15th day of March, 2022, upon consideration of Plaintiff Allan Dillard's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. Allan Dillard, #HE-2496, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Dallas or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Dillard's inmate account; or (b) the average monthly balance in Dillard's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent of SCI Dallas or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Dillard's inmate trust fund account exceeds \$10.00, the Superintendent of SCI Dallas or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Dillard's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court shall **SEND** a copy of this Order to the Superintendent of SCI Dallas.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, Dillard's claims against the City of Philadelphia are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

6. The Clerk of Court is **DIRECTED** to send Dillard a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.¹

7. Dillard may within thirty (30) days to file an amended complaint in the event he can allege additional facts to state a plausible claim against the City of Philadelphia. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Dillard's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 22-0941. If Dillard files an amended complaint, his amended complaint must be a complete document that includes **all** of the bases for his claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. **Claims that are not included in the amended complaint will not be considered part of this case.** When drafting his amended complaint, Dillard should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmcl983f.pdf>.

8. If Dillard does not file an amended complaint the Court will direct service of his initial Complaint on Defendant Graham only. Dillard may also notify the Court that he seeks to proceed on these claims only rather than file an amended complaint. If he files such a notice, Dillard is reminded to include the case number for this case, 22-0941.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued. The Clerk of Court shall issue summonses. Service of the summonses and the Complaint shall be made upon the Defendants by the U.S. Marshals Service. Dillard will be required to complete USM-285 forms so that the Marshals can serve the Defendants. Failure to complete those forms may result in dismissal of this case.

BY THE COURT:

/s/ **Chad F. Kenney**

CHAD F. KENNEY, J.